This is a full and timely response to the outstanding non-final Office Action mailed May 16, 2005. Reconsideration and allowance of the application and pending claims are respectfully requested.

I.   Claim Rejections - 35 U.S.C. § 102(e)

Claims 1, 4, 5, 7-12, 14-20, and 25-36 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Parthesarathy, et al. ("Parthesarathy," U.S. Pat. No. 6,353,926). Applicant respectfully traverses this rejection.

As was noted in the previous Response, not every feature of the claimed invention is represented in the Parthesarathy reference. Applicant discusses the Parthesarathy reference and Applicant's claims in the following.

A.   The Parthesarathy Disclosure

Parthesarathy discloses a software update notification method. As is described in the "Summary of the Invention" section of the Parthesarathy reference:

> The invention described herein leverages channel architecture and Open Software Description (OSD) vocabulary to provide a way for the application vendor to subscribe the user to a software update channel that the vendor can use to notify users of software updates as they become available. At the time of installing the application, the user is prompted to subscribe to the software update channel. A shortcut (.lnk file) that the application installs is created with special information that identifies the application by a unique name. The channel is updated periodically based on the schedule suggested by the channel. When a new update is detected, the software channel delivers

the software update to the user's computer and sends notifications by, for example, email or gleaming the icon to indicate that a new software update is now available. Also, the next time the user launches the application through the shortcut (.lnk file), the shell automatically displays the update notification information to the user. [Parthesarathy, column 2, lines 8-25]

Accordingly, Parthesarathy's method alerts users to the availability of software updates. This process is described in more detail in Parthesarathy's Detailed Description. There, Parthesarathy states:

If a new update is detected, in step 106, the software update channel downloads the update information to the user's computer in step 108. When the user next uses the computer or the specific application, the user is notified that a new update is available in step 110. *The computer then queries the user to determine if the user wants to load the new update now* in step 112. *If the user does not want to load the new update, the computer can then inquire if the user may want to load the update in the future* in step 114. If the user does not want to ever load the new update, the computer notes that the update has been received in a registry, in step 116, and returns to step 104 to check periodically for the next software update. However, if it is determined in step 112 that the user wants to load the new update, the new update is loaded in step 118 and the registry is updated to note the version of the software that was loaded in step 116. The computer then returns to step 104 to periodically check for the next software update. It will be appreciated by one skilled in the art that steps 110, 112, 114, and 118 could be skipped by automatically updating the user's computer every time a new update is detected. [Parthesarathy, column 6, lines 11-31, (emphasis added)]

From the above-provided excerpt, it is apparent that the Parthesarathy system queries the user whether he or she would like to load the new update and, if not, queries the user if he or she would like to load the new update in the future. <u>No other querying of the user is described by Parthesarathy.</u>

B.   Applicant's Claims

1.   Claims 1, 4, 5, and 7-9

Independent claim 1 provides as follows (emphasis added):

> 1.   A method for distributing software, comprising:
>
> *querying a user as to the needs of the user*;
>
> receiving user responses to the query;
>
> *characterizing the use of the user based upon the user responses*; and
>
> *providing software programs* that may be beneficial to the user *based upon the characterization of the use*.

In regard to this claim, Applicant notes that Parthesarathy does not teach or suggest "characterizing the use of the user based upon the user responses" or "providing software programs that may be beneficial to the user based upon the characterization of the use", as recited in claim 1. Instead, the Parthesarathy method simply comprises loading the update if the user provides permission, and not loading the update if the user does not provide that permission. Parthesarathy says nothing about "characterizing the use" of the user based upon user responses. In fact, Parthesarathy's system and method do not "characterize" any use of the user.

Further, Applicant notes that Parthesarathy does not teach or suggest "querying a user as to *the needs of the user*". Instead, Parthesarathy teaches, and only teaches,

asking the user whether the user would like to load an update now, or load the update later. That is, "querying" performed in the Parthesarathy system/method is performed to obtain *permission to load* a system-detected program update. Clearly, such questions do not equate to questioning the user as to his or her "needs".

For at least the foregoing reasons, Parthesarathy does not anticipate claim 1 or any of its dependents.

2. Claims 10-12 and 14-16

Independent claim 10 provides as follows (emphasis added):

> 10. A system for distributing software, comprising:
> *means for querying a user as to the needs of the user*;
> means for receiving user responses to the query;
> *means for characterizing the use of the user based upon the user responses*; and
> *means for providing software programs* that may be beneficial to the user *based upon the characterization of the use.*

In reference to claim 10, Parthesarathy fails to teach or suggest "means for querying a user as to the needs of the user", "means for characterizing the use of the user based upon the user responses", or "means for providing software programs that may be beneficial to the user based upon the characterization of the use" for reasons described above. For at least those reasons, Parthesarathy does not anticipate claim 10 or any of its dependents.

3. Claims 17-20

Independent claim 17 provides as follows (emphasis added):

> 17. A software program stored on a computer-readable medium, comprising:
>
> *logic configured to query a user as to the needs of the user*;
>
> logic configured to receive user responses to the query;
>
> *logic configured to characterize the use of the user based upon the user responses*; and
>
> *logic configured to provide software programs* that may be beneficial to the user *based upon the characterization of the use.*

Regarding claim 17, Parthesarathy fails to teach or suggest "logic configured to query a user as to the needs of the user", "logic configured to characterize the use of the user based upon the user responses", or "logic configured to provide software programs that may be beneficial to the user based upon the characterization of the use" for reasons described above. For at least those reasons, Parthesarathy does not anticipate claim 17 or any of its dependents.

4. Claims 25-28

Independent claim 25 provides as follows (emphasis added):

> 25. A method for distributing software, comprising:
>
> *querying a user as to what the user wants to accomplish*;
>
> receiving responses from the user; and
>
> *providing software programs based upon the user responses.*

Regarding claim 25, the Parthesarathy system only queries the user for permission to load an update. Parthesarathy fails to teach or suggest "querying a user as

to what the user wants to accomplish" or "providing software programs based upon the user responses". That is, the Parthesarathy system simply asks the user for permission to load a system-detected update, with no inquiry as to "what the user wants to accomplish." For at least the above reasons, Parthesarathy does not anticipate claim 25 or any of its dependents.

5.   Claims 29-32

Independent claim 29 provides as follows (emphasis added):

> 29.   A method for distributing software, comprising:
> *querying a user as to the needs of the user*;
> receiving responses from the user; and
> *suggesting software programs based upon the user responses*.

Referring next to independent claim 29, Parthesarathy fails to teach or suggest "querying a user as to the needs of the user", for reasons described in the foregoing, or "suggesting software programs based upon the user responses". Specifically, Parthesarathy's system makes no suggestions to the user based upon user responses. The only "suggestion" that Parthesarathy's system can be said to make is the implicit suggestion to load an update. Even using such a broad interpretation, however, that "suggestion" is not based upon a user response. Further, there is no inquiry in the system of Parthesarathy about the "needs of the user." The Parthesarathy system simply asks the user permission to load a system-detected update. For at least the above reasons, Parthesarathy does not anticipate claim 29 or any of its dependents.

6.   Claims 33-36

Independent claim 33 provides as follows (emphasis added):

33.   A method for distributing software, comprising:

determining tasks a user wishes to accomplish from responses provided by the user; and

installing software programs based upon the determination.

Regarding claim 33, Parthesarathy fails to teach or suggest "determining tasks a user wishes to accomplish from responses provided by the user" or "installing software programs based upon the determination". Stated simply, Parthesarathy makes no determinations as to what a user wishes to accomplish, and therefore cannot install programs based upon that determination. The Parthesarathy system asks the user for permission to load a system-detected update, and discloses nothing about "determining tasks a user wishes to accomplish." For at least the above reasons, Parthesarathy does not anticipate claim 33 or any of its dependents.

C.   Conclusion

Due to the shortcomings of the Parthesarathy reference described in the foregoing, Applicant respectfully asserts that Parthesarathy does not anticipate Applicant's claims. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

II.   Claim Rejections - 35 U.S.C. § 103(a)

A.   Rejection of Claim 2

Claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Bradford (U.S. Pat. No. 6,678,679). Applicant respectfully traverses this rejection.

As is identified above in reference to independent claim 1, Parthesarathy does not teach several of Applicant's explicit claim limitations. In that Bradford does not remedy the deficiencies of the Parthesarathy reference, Applicant respectfully submits that claim 2, which depends from claim 1, is allowable over the Parthesarathy/Bradford combination for at least the same reasons that claim 1 is allowable over Parthesarathy.

As a further matter, Applicant asserts that there is no motivation to modify the Parthesarathy system/method in view of the Bradford reference. Bradford discloses a method and system for facilitating the refinement of data queries. Given that Parthesarathy is only querying a user to determine whether to load an update now or later, no "refinement" of Parthesarathy's querying would be seen as desirable to a person having ordinary skill in the art.

B.   Rejection of Claims 6, 13, and 19

Claims 6, 13, and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Kroening (U.S. Pat. No. 6,859,924). Applicant respectfully traverses this rejection.

As is identified above in reference to independent claims 1, 10, and 17, Parthesarathy does not teach several of Applicant's explicit claim limitations. In that Kroening does not remedy the deficiencies of the Parthesarathy reference, Applicant respectfully submits that dependent claims 6, 13, and 19 are allowable over

Parthesarathy/Kroening for at least the same reasons that respective independent claims 1, 10, and 17 are allowable over Parthesarathy.

C. Rejection of Claims 3 and 21-24

Claims 3 and 21-24 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Himmel, et al. ("Himmel", U.S. Pat. No. 6,742,052). Applicant respectfully traverses this rejection.

Both claims 3 and 21 describe querying a user regarding a contemplated use of a device. In claim 3, recited is "querying the user as to how the user plans to use a peripheral device". In claim 21, recited is "querying the user as to what the peripheral device may be used for".

In the outstanding Office Action, it is admitted that Parthesarathy does not teach such querying. However, the Office Action identifies the Himmel reference as providing the missing teaching, and further alleges that claims 3 and 21 would have been obvious under Parthesarathy in view of Himmel. Applicant asserts that Himmel neither teaches querying a user as to a contemplated use of a device, nor provides a teaching that is properly combinable with the Parthesarathy reference.

Himmel discloses a wireless bus system. As is described by Himmel, the wireless bus system is provided in a mobile or desktop computer and is used to discover and accept wireless peripheral devices within the range of the wireless transmissions. Himmel, Abstract.

The Office Action argues that Himmel "teaches querying the user as to how the user plans to use a peripheral device" and cites column 2, line 66 to column 3, line 2 of the Himmel reference for support. That portion of the reference provides as follows:

Alternatively, the method may include informing a user of the computer that the peripheral device has been identified, and querying the user whether to accept and configure the peripheral device.

[Himmel, column 2, line 66 to column 3, line 2]

Clearly, the above excerpt does not teach, as is suggested in the Office Action, "querying the user as to *how* the user plans to use a peripheral device". Instead, as before, the user is merely being asked for *permission* to do something, in this case whether to "accept and configure" a device. Nothing in the cited portion of the Himmel reference even suggests querying a user as to "how" the user will use the device.

As a further matter, nothing in either reference suggests modifying the Parthesarathy system in view of Himmel's teachings. Specifically, there is nothing in either reference, or the remainder of the prior art, that would suggest to a person having ordinary skill in the art, to query a user of Parthesarathy's system as to whether to accept and configure a peripheral device. Again, Parthesarathy's system is used to notify user's of *software updates*, not nearby devices.
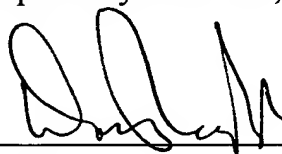
III. New Claims

Claims 37-44 have been added into the application through this Response. Applicant respectfully submits that these new claims describe an invention novel and unobvious in view of the prior art of record and, therefore, respectfully requests that these claims be held to be allowable.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.
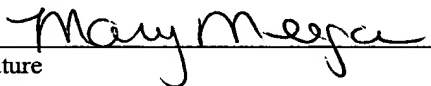
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Assistant Commissioner for Patents, Alexandria, Virginia 22313-1450, on

8-16-05

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